

REMARKS/ARGUMENTS

Claims 1-15 are pending in the application.

Applicant respectfully traverses the restriction requirement as inappropriate for the reasons set forth below. In addition, Applicant asserts that there would be no undue burden in examining these alleged two sets of claims, as the Examiner has defined. The fees for examination of these claims had been remitted in the filing of the national application.

In the Office Action, an election was required between two groupings of claims based on the assertion that these groupings are each directed to different inventive concepts under PCT Rules 13.1 and 13.2. According to the Examiner, the claim groupings allegedly lack the same or corresponding technical features because each group is characterized by a different contribution that each invention within that group, considered as a whole, makes over the prior art. Applicant respectfully asserts that this condition is incorrectly applied to the instant invention because the identified groupings include common distinguishing technical feature, namely each group includes the features of *at least one electrical conductor*, and *at least one field shaping strip made of magnetic material*. As such, Applicant submits that the identified groupings are not properly construed as different species because they are not mutually exclusive.

According to M.P.E.P. § 1850(A), "(t)he method for determining unity of invention under PCT Rule 13 shall be construed as permitting, in particular, the inclusion of any one of the following combinations of claims of different categories in the same international application: (A) In addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product...." Applicant submits that the Claims 1-10 claims are directed to a device and the Claims 11-15 claims are directed to a method of making that device, thus according to M.P.E.P. § 1850(A) the restriction of the claims is improper.

Applicant has reviewed the International Search Report (Application No. PCT/IB2004/051941, dated 20-APR-2006) hereinafter, "ISR," corresponding to this national application. The ISR noted no issues with a "Lack of Unity of Invention" with

respect to the pending claims; the ISR concurred with the “observance of this requirement is checked by the International Searching Authority and may be relevant to the national (or regional) phase. (MPEP §1850), Paragraph I.” For convenience, a copy of this ISR is enclosed, and follows the Remarks/Arguments. Reconsideration and withdrawal of the restriction requirement is respectfully requested, along with concurrent examination of claims 1-15.

The Commissioner is hereby requested and authorized pursuant to 37 CFR §1.136(a)(3), to treat any concurrent or future reply in this application requiring a petition for extension of time for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. Please charge any additional fees which may now or in the future be required in this application, including extension of time fees, but excluding the issue fee unless explicitly requested to do so, and credit any overpayment, to Deposit Account No. 50-4019.

Respectfully submitted,

Date: 15-JAN-2008

By /Peter Zawilski/
Peter Zawilski
Registration No. 43,305
(408) 474-9063

Correspondence Address:

NXP, B.V
Intellectual Property Department
1109 McKay Drive; Mail Stop 41-SJ
San Jose, CA 95131 USA

CUSTOMER NUMBER: 65913

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION CONCERNING
TRANSMITTAL OF COPY OF INTERNATIONAL
PRELIMINARY REPORT ON PATENTABILITY
(CHAPTER I OF THE PATENT COOPERATION
TREATY)
(PCT Rule 44bis.1(c))

To:

ELEVLD, Koop, J.
Prof. Holstlaan 6
NL-5656 AA Eindhoven
PAYS-BAS

26 APR. 2006

Date of mailing (day/month/year) 20 April 2006 (20.04.2006)
--

Applicant's or agent's file reference PHNL031187WO

IMPORTANT NOTICE

International application No. PCT/IB2004/051941	International filing date (day/month/year) 01 October 2004 (01.10.2004)	Priority date (day/month/year) 06 October 2003 (06.10.2003)
Applicant KONINKLIJKE PHILIPS ELECTRONICS N.V. et al		

The International Bureau transmits herewith a copy of the international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

Idhir Britel

Facsimile No.+41 22 740 14 35

Facsimile No.+41 22 338 70 60

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference PHNL031187WO	FOR FURTHER ACTION		See item 4 below
International application No. PCT/IB2004/051941	International filing date (<i>day/month/year</i>) 01 October 2004 (01.10.2004)	Priority date (<i>day/month/year</i>) 06 October 2003 (06.10.2003)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant KONINKLIJKE PHILIPS ELECTRONICS N.V.			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input checked="" type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis.2).

Date of issuance of this report
10 April 2006 (10.04.2006)

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 740 14 35	Authorized officer Idhir Britel Telephone No. +41 22 338 70 60
---	---

PATENT COOPERATION TREATY

REC'D 23 NOV 2004

From the
INTERNATIONAL SEARCHING AUTHORITY

WIPO

PCT

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION

See paragraph 2 below

International application No.
PCT/IB2004/051941

International filing date (day/month/year)
01.10.2004

Priority date (day/month/year)
06.10.2003

International Patent Classification (IPC) or both national classification and IPC
G11C11/16

Applicant
KONINKLIJKE PHILIPS ELECTRONICS N.V.

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523656 epmu d
Fax: +49 89 2399 - 4465

Authorized Officer

Lindquist, J

Telephone No. +49 89 2399-2727



Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - a sequence listing
 - table(s) related to the sequence listing
 - b. format of material:
 - in written format
 - in computer readable form
 - c. time of filing/furnishing:
 - contained in the international application as filed.
 - filed together with the international application in computer readable form.
 - furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IB2004/051941

Box No. II Priority

1. The following document has not been furnished:
 - copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
 - translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
2. This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or
industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-15
	No: Claims	
Inventive step (IS)	Yes: Claims	1-15
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-15
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V.

1. The following document is referred to in this communication:

D1 : EP 1 195 820 A (INFINEON TECHNOLOGIES AG) 10 April 2002
(2002-04-10)

2. Document D1, which is considered to represent the most relevant state of the art, discloses (the references in parenthesis applying to this document):
an MRAM (para.0040, fig.3) having write lines which contain recesses or depressions (17) to modify the magnetic flux (B).

From this, the subject-matter of independent claims 1 and 11 differs in that:

such a modified magnetic flux is achieved by attaching a strip of magnetic material (42 of fig.4) to the side of the write line facing the memory cell.

The subject-matter of claim 1 is therefore novel (Article 33(2) PCT). And the present application is also considered to involve an inventive step (Article 33(3) PCT).